

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ROBERT JACKSON,
 Plaintiff,

v.

NEVADA DEPARTMENT OF
 CORRECTIONS, *et al.*,
 Defendants.

Case No. 2:21-cv-01772-JAD-EJY

ORDER

Before the Court is Interested Party Nevada Department of Corrections’ (“NDOC”) Motion to Vacate Early Mediation Conference. ECF No. 12. NDOC moves to vacate the Early Mediation Conference ordered to occur on January 13, 2023. ECF No. 11. Under District of Nevada Local Rule 7-2(d), “[t]he failure of an opposing party to file points and authorities in response to any motion, except a motion under Fed. R. Civ. P. 56 ... constitutes a consent to the granting of the motion.” Here, Plaintiff has not filed a timely response.

In its Motion, NDOC argues that Plaintiff, a *pro se* inmate, has filed two previous lawsuits—2:21-cv-1773-CDS-VCF and 2:20-cv-01322-ART-VCF—in which the parties engaged in mediations only to fail to come to a resolution. ECF No. 12 at 1-2. NDOC contends the two prior cases involved similar sets of operative facts that are the subject of the instant litigation. *Id.* at 2. In addition, NDOC asserts the parties’ positions in this case are fully developed and that mediation will, once again, be unsuccessful. *Id.* at 3.

In support of the relief requested, NDOC cites to a recent decision by this Court stating, in relevant part: “A party moving to exclude a case from the [Inmate Early Mediation] program must demonstrate why the case is not suitable for mediation ... [W]hen mediation does not appear likely to be productive and save resources, the Court may choose to remove a case from the program and vacate any scheduled mediation conference.” *Id.* at 2 citing *Hill v Villatoro*, Case No. 2:20-cv-01822-RFB-VCF, 2021 WL 8016717, at *1 (D. Nev. 2021).

1 Having reviewed NDOC's Motion and the applicable case law, the Court finds NDOC's
2 argument persuasive.

3 Accordingly, IT IS HEREBY ORDERED that Interested Party Nevada Department of
4 Corrections' Motion to Vacate Early Mediation Conference (ECF No. 12) is GRANTED.

5 IT IS FURTHER ORDERED that the Inmate Early Mediation Conference scheduled for
6 January 13, 2023 is vacated.

7 DATED this 2nd day of November, 2022.

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10 ELAYNA J. YOUCHAK
11 UNITED STATES MAGISTRATE JUDGE
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